

**Notice of Allowability**

Application No.

09/818,918

Applicant(s)

KRIEG ET AL.

Examiner

Art Unit

N. M. Minnifield

1645

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/06/06.
2. ☒ The allowed claim(s) is/are 1, 4-11 and 13-30; now renumbered 1-27 respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 1/22/07
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **ALLOWANCE**

1. Applicants' amendment filed November 6, 2006 is acknowledged and has been entered. Claims 1, 4-11 and 13-30 are now pending in the present application. All rejections have been withdrawn in view of Applicants' amendment to the claims and/or comments.

It is noted that the provisional ODP rejection over 10/817165 has been withdrawn.

The 112, 1<sup>st</sup> paragraph enablement rejection has been withdrawn upon further review of the state of the art at the time of filing, the specification, submitted declarations and Applicants' remarks. The claimed invention (A method for treating atopic dermatitis, comprising administering to a subject in need of treatment of atopic dermatitis an immunostimulatory oligonucleotide 8 to 100 nucleotides long, comprising: 5' X<sub>1</sub>CGX<sub>2</sub>3' wherein the C is unmethylated and wherein X<sub>1</sub> and X<sub>2</sub> are nucleotides, wherein X<sub>1</sub> is selected from the group consisting of A, G, and T, and wherein X<sub>2</sub> is selected from the group consisting of C and T, in an effective amount to treat the atopic dermatitis.) is enabled as evidenced in data set forth in the Kline declaration of September 15, 2003 and Example 12 of the instant application. The declaration and specification both teach and enable the claimed method by treating atopic conditions (atopic dermatitis and asthma respectively) in a subject in need of such treatment by administering (i.p.) an immunostimulatory oligonucleotide.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should

preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. Claims 1, 4-11 and 13-30 have been allowed and renumbered 1-27 respectively.

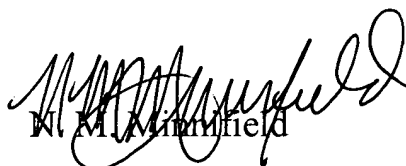
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to N. M. Minnifield whose telephone number is 571-272-0860. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to read 'N. M. Mimmfield', is written over the printed name.

N. M. Mimmfield

Primary Examiner

Art Unit 1645

NMM

March 16, 2007